

The Senate met at 8:30 o'clock a.m. and was called to order by the President.

#### HOUSE BILL 808 RE-REFERRED

On motion of Senator Santiesteban and by unanimous consent, H.B. 808 was withdrawn from the Committee on Intergovernmental Relations and re-referred to the Committee on Administration.

#### REPORTS OF STANDING COMMITTEES

Senator Brooks submitted the following reports for the Committee on Human Resources:

H.B. 463 (Amended)  
H.B. 1328  
H.B. 1457 (Amended)  
H.B. 1415 (Amended)  
C.S.S.B. 484 (Read first time)

#### RECESS

On motion of Senator Aikin the Senate at 8:33 o'clock a.m. took recess until 10:00 o'clock a.m. today.

#### SEVENTY-FOURTH DAY

(Continued)

(Tuesday, May 15, 1973)

#### After Recess

The Senate met at 10:00 o'clock a.m. and was called to order by the President.

The Reverend Dr. Charles Cockrell, Pastor, First Baptist Church, Garland, Texas, offered the invocation as follows:

Our Lord and our God we praise and extol thy Name above every name because of the riches of thy mercy and grace.

We thank thee for these Senators whose lives are dedicated and sanctified for the purpose of forwarding the good of our great Republic.

Grant them wisdom and divine guidance in all their deliberations and may they be consummated to thy glory. In thy precious name we pray. Amen.

#### LEAVES OF ABSENCE

Senator Blanchard was granted leave of absence for today on account of important business on motion of Senator Traeger.

Senator Gammage was granted leave of absence for today on account of important business on motion of Senator Brooks.

**MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, May 14, 1973

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 1572, A bill to be entitled An Act relating to the creation of a juvenile board for Collin County; setting board membership and compensation; providing for a juvenile officer; and declaring an emergency.

The House has concurred in Senate amendments to H.B. 799 by a non-record vote.

Respectfully submitted,  
**DOROTHY HALLMAN**  
Chief Clerk, House of Representatives

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 20	S.B. 551
S.C.R. 52	S.B. 625
S.C.R. 100	S.B. 634
S.C.R. 106	S.B. 644
S.B. 50	S.B. 649
S.B. 106	S.B. 650
S.B. 124	S.B. 660
S.B. 151	S.B. 661
S.B. 159	S.B. 673
S.B. 173	S.B. 685
S.B. 261	S.B. 749
S.B. 295	S.B. 788
S.B. 344	S.B. 847
S.B. 352	S.B. 848
S.B. 466	S.B. 856
S.B. 480	S.B. 872
S.B. 502	S.B. 884
S.B. 519	S.B. 887
S.B. 526	S.B. 922
S.B. 530	S.B. 935

531 832 ( )

subject to the provisions of Article III, Section 49a of the Constitution of Texas)

**SENATE CONCURRENT RESOLUTION 91**  
**ON SECOND READING**

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time the following resolution:

S.C.R. 91, Granting Ethel and Edith Cavitt permission to sue the State.

The resolution was read and was adopted.

**COMMITTEE SUBSTITUTE HOUSE BILL 1  
ON SECOND READING**

The President laid before the Senate on its second reading and passage to third reading:

C.S.H.B. 1 (The bill having been read second time on yesterday.)

Question, Shall C.S.H.B. 1 be passed to third reading?

Senator Mauzy offered the following amendment to the bill:

Amend Section 4 of C.S.H.B. 1 by adding Subsections (3) and (4) to read as follows:

"(3) No state, local or judicial officer or state, local or judicial employee shall receive any compensation for his services as an officer or employee from any source other than as authorized by the State or any political subdivision.

"(4) No member of the legislature, individually or through a business in which he has a substantial interest, shall enter into any contract or other business relation with a state agency whereby any fee, compensation, commission, or other pecuniary benefit will be paid to or received by such member or by such business in which he has a substantial interest."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 10, Nays 18.

Yeas: Aikin, Brooks, Clower, Harrington, Kothmann, Mauzy, Patman, Snelson, Traeger and Wolff.

Nays: Adams, Andujar, Braecklein, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman and Wallace.

Absent: Longoria.

Absent-excused: Blanchard and Gammage.

Senator Mauzy offered the following amendment to the bill:

Amend C.S.H.B. 1 by adding the following section:

"Sec. 5A. STANDARDS OF CONDUCT. (1) No person who holds a public office or position of trust should accept or solicit any gift, favor, or service that would reasonably be expected to influence him in the discharge of his official duties or that he knows or should know is being offered him with the intent to influence his official conduct.

"(2) No person who holds a public office or civil position of trust should accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by reason of his official position.

"(3) No person who holds a public office or civil position of trust should accept other employment or compensation which would reasonably be expected to

impair his independence of judgment in the performance of his official duties.

"(4) No person who holds a public office or civil position of trust should make personal investments which might create a substantial conflict between his private interest and the public interest.

"(5) No officer or employee of a state agency should accept anything of value, including a promise of future employment or a favor or service, from a person who is licensed or who has a substantial interest in a business entity that is licensed by the state agency in which the officer or employee serves."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 13, Nays 16.

Yeas: Adams, Braecklein, Brooks, Clower, Harrington, Hightower, Kothmann, Longoria, Mauzy, Patman, Snelson, Traeger and Wolff.

Nays: Aikin, Andujar, Creighton, Harris, Herring, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman and Wallace.

Absent-excused: Blanchard and Gammage.

Senator Mauzy offered the following amendment to the bill:

Amend Section 6 of C.S.H.B. 1 by striking "the Secretary of State," in paragraph (a) and in paragraph (1).

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 9, Nays 20.

Yeas: Brooks, Clower, Harrington, Kothmann, Longoria, Mauzy, Patman, Traeger and Wolff.

Nays: Adams, Aikin, Andujar, Braecklein, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson and Wallace.

Absent-excused: Blanchard and Gammage.

Senator Mauzy offered the following amendment to the bill:

Amend Section 7 of C.S.H.B. 1 by striking subsections (1) and (2) and substituting the following:

"(1) Any person required to file a financial statement under this Act who knowingly and willfully fails to file such statement is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000 or by confinement in the county jail for not more than six months, or both. However, in a prosecution for a failure to file under Section 2, it is a defense that the defendant did not receive notice pursuant to Subsection (e) of that section.

"(2) Any person required to file a financial statement under this Act who knowingly and willfully violates any provision of Section 4 of this Act is guilty of a felony and on conviction is punishable by a fine of not more than

\$5,000 or by imprisonment in the penitentiary for not less than two years nor more than five years, or both.

(3) Any person who receives a private economic benefit in violation of Subsection (a) of Section 6 of this Act is liable to the state for an amount equal to the amount of economic benefit received in violation of the Act."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 9, Nays 20.

Yeas: Brooks, Clower, Harrington, Hightower, Kothmann, Longoria, Mauzy, Patman and Wolff.

Nays: Adams, Aikin, Andujar, Braecklein, Creighton, Harris, Herring, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Wallace.

Absent-excused: Blanchard and Gammage.

Senator Mauzy offered the following amendment to the bill:

Amend Section 8 of C.S.H.B. 1 by striking Section 8 and substituting the following:

Sec. 8. VENUE; LIMITATION OF ACTIONS. (1) Any violation of this Act shall be prosecuted in either the county which is the residence of the defendant or Travis County, the choice of forum resting with the one who files the verified written complaint.

"(2) No complaint may be filed more than two years after the date of the alleged violation."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Brooks, Clower, Gammage, Harrington, Kothmann, Longoria, Mauzy, Patman, Traeger and Wolff.

Nays: Adams, Aikin, Andujar, Braecklein, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson and Wallace.

Absent-excused: Blanchard.

Senator Mauzy offered the following amendment to the bill:

Amend C.S.H.B. 1 by adding the following section, appropriately numbered, and renumbering sections accordingly:

"Sec. ---. TEMPORARY PROVISION. Within 60 days after the effective date of this Act, every person required to file a financial statement under this Act who has a substantial interest in a business entity which is licensed and regulated by any state agency except the office of the Secretary of State or the Comptroller of Public Accounts shall file a financial statement as

required by this Act."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 9, Nays 22.

Yeas: Clower, Gammage, Harrington, Kothmann, Longoria, Mauzy, Patman, Traeger and Wolff.

Nays: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson and Wallace.

Senator Mauzy offered the following amendment to the bill:

Amend C.S.H.B. 1 by adding the following section, appropriately numbered:

"Sec. ---. SEVERABILITY. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 9, Nays 22.

Yeas: Brooks, Clower, Gammage, Harrington, Kothmann, Longoria, Mauzy, Patman and Wolff.

Nays: Adams, Aikin, Andujar, Blanchard, Braecklein, Creighton, Harris, Herring, Hightower, Jones, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Wallace.

Senator Mauzy offered the following amendment to the bill:

Amend C.S.H.B. 1 by adding the following section, appropriately numbered:

"Sec. ---. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended."

The amendment was read and was adopted.

Senator Mauzy offered the following amendment to the bill:

Amend C.S.H.B. 1 by striking all above the enacting clause and amending the caption to conform to the provisions of the Act.

The amendment was read and was adopted.

Senator Clower offered the following amendment to the bill:

Amend C.S.H.B. 1 by striking Sec. 6.(a), (1) and (2) and renumbering the following subsections.

The amendment was read.

Question on the adoption of the amendment, "Yeas" and "Nays" were demanded.

The amendment failed of adoption by the following vote: Yeas 5, Nays 26.

Yeas: Clower, Kothmann, Mauzy, Patman and Wolff.

Nays: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Wallace.

The bill as amended was passed to third reading by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Mauzy and Patman.

Absent: Blanchard.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Moore.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Nays: Mauzy and Patman.

**HOUSE BILL 1504 RE-REFERRED**

On motion of Senator Blanchard and by unanimous consent, H.B. 1504 was withdrawn from the Committee on Intergovernmental Relations and re-referred to the Committee on Administration.

**HOUSE BILL 1447 RE-REFERRED**

On motion of Senator Kothmann and by unanimous consent, H.B. 1447 was withdrawn from the Committee on Intergovernmental Relations and re-referred to the Committee on Administration.

**HOUSE BILL 1448 RE-REFERRED**

On motion of Senator Kothmann and by unanimous consent, H.B. 1448 was withdrawn from the Committee on Intergovernmental Relations and re-referred to the Committee on Administration.

**HOUSE BILL 733 RE-REFERRED**

On motion of Senator Kothmann and by unanimous consent, H.B. 733 was withdrawn from the Committee on Human Resources and re-referred to the Committee on Administration.

**REPORTS OF STANDING COMMITTEES**

By unanimous consent, Senator Moore submitted the following reports for the Committee on State Affairs:

H.B. 1204  
H.B. 1219 (Amended)  
H.B. 730  
H.B. 1512  
H.B. 277  
S.B. 932

By unanimous consent, Senator Hightower submitted the following reports for the Committee on Administration:

S.B. 878  
H.B. 1580  
C.S.H.B. 169 (Read first time)  
H.B. 1630  
H.B. 1603 (Amended)  
H.B. 1637  
H.C.R. 173  
H.C.R. 170  
H.C.R. 73  
H.B. 1567 (Amended)  
H.B. 1583  
H.B. 1566  
H.B. 857  
H.B. 806  
H.B. 1301  
H.B. 1594  
H.C.R. 163  
S.C.R. 102  
S.C.R. 101

By unanimous consent, Senator Sherman submitted the following reports for



the Committee on Natural Resources:

H.C.R. 121

H.J.R. 6

H.B. 779

H.B. 1353

By unanimous consent, Senator Wallace submitted the following report for the Committee on Intergovernmental Relations:

S.B. 941

### HOUSE BILL 1067 RE-REFERRED

On motion of Senator Aikin and by unanimous consent, H.B. 1067 was withdrawn from the Committee on Finance and re-referred to the Committee on Administration.

### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, May 15, 1973

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 1244, A bill to be entitled An Act relating to the use of canes that are metallic or white in color or white-tipped with red, amending Article 4419c, Section 2, Subsection a-1, Revised Civil Statutes of Texas, as amended and Article 6701e, Sections 1 and 2, Revised Civil Statutes of Texas; and declaring an emergency.

The House has concurred in Senate amendments to House Bill 69 by non-record vote.

The House has concurred in Senate amendments to House Bill 1087 by vote of 109 Ayes, 6 Noes, and 6 Present-Not voting.

The House has concurred in Senate amendments to House Bill 1481 by vote of 114 Ayes, 7 Noes, and 9 Present-Not voting.

H.B. 1200, A bill to be entitled An Act relating to electronic voting systems; amending 80, Texas Election Code, as amended (Article 7.15, Vernon's Texas Election Code) by adding additional subdivisions 11b, providing for a Computer Program Approval Committee, 23a, providing for a manual recount; and by amending subdivision 2(a) redefining "Electronic Voting System", and 2(h) redefining "Program"; subdivision 3(a) increasing examination fees, and 3(b) adding an additional member to the examining board; subdivision 4(a) (1) providing for secret ballots; subdivision 9(c) providing method of opening and closing voting machine during absentee voting; subdivision 10(a) providing for notification of chairmen of County political parties in certain elections, and 10(b) providing for instructions on marking the ballot; subdivision 11(c) (1), providing for quality and content of ballot card, 11(c) (2) providing for the size and shape of prepunched holes in the ballot card, 11(c) (4) making it mandatory to list uncontested races separately, 11(c) (5) providing specifications for a detachable stub, 11(c) (6) making the listing of uncontested races mandatory, 11(c) (7) providing for the number of voting machines per

precinct, and 11(c) (8) providing a manner of recording the ballot stub number on a write-in-ballot; subdivision 11a providing for a time in which to submit the computer program to the tabulation supervisor; subdivision 12 providing for the elimination of candidates' names from sample ballots, subdivision 16 providing procedures for opening the ballot assembly tray and voting equipment, subdivision 17, providing the two-minute time limit applicable to voting machines shall not apply to electronic voting systems, subdivision 18, eliminating the carrying of ballots to the central counting station during the voting day, subdivision 19(d) providing time to deliver ballots to central counting station, subdivision 20(f) providing for the testing of the computer program at least two weeks prior to the election and 20(n) providing for an alternate tabulating system, subdivision 23, providing for representation on a recount committee and prescribing fees for the recount; and declaring an emergency.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

**CONFERENCE COMMITTEE REPORT ON HOUSE  
CONCURRENT RESOLUTION 3 ADOPTED**

Senator Schwartz called from the President's Table the Conference Committee Report on H.C.R. 3. (The Conference Committee Report having been filed with the Senate and read on May 11, 1973.)

On motion of Senator Schwartz, the Conference Committee Report was adopted.

**MESSAGE FROM THE HOUSE**

Hall of the House of Representatives  
Austin, Texas, May 15, 1973

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on H.C.R. 3 by a vote of 138 Ayes, 3 Noes.

The House has concurred in Senate amendments to H.B. 833 by non-record vote.

The House has adopted the Conference Committee Report on S.B. 642 by a vote of 141 Ayes, 0 Noes.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

**COMMITTEE SUBSTITUTE SENATE BILL 34  
ON SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 34, A bill to be entitled An Act reforming the penal law;

enacting a new penal code setting out general principles, defining offenses, and affixing punishments, making necessary conforming amendments to outside law; repealing replaced law; and declaring an emergency.

The bill was read second time.

(Senator Sherman in Chair)

Senator Santiesteban offered the following amendment to the bill:

Amend C.S.S.B. 34, by deleting in line 6, page 15, the word "which" and substituting the words "or that".

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Amend C.S.S.B. 34, by deleting all of line 44, page 240.

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Amend C.S.S.B. 34, by amending Sec. 42.02 (pages 136 and 137) to read as follows:

"Sec. 42.02. RIOT. (a) For the purpose of this section, 'riot' means the assemblage of seven or more persons resulting in conduct which:

"(1) creates an immediate danger of damage to property or injury to persons;

"(2) substantially obstructs law enforcement or other governmental functions or services; or

"(3) by force, threat of force, of physical action, deprives any person or disturbs any person in the enjoyment of a legal right.

"(b) A person commits offense if he knowingly participates in a riot.

"(c) It is a defense to prosecution under this section that the assembly was at first lawful and when one of those assembled manifested an intent to engage in conduct enumerated in Subsection (a) of this section, the actor retired from the assembly.

"(d) It is no defense to prosecution under this section that another who was party to the riot has been acquitted, has not been arrested, prosecuted, or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution.

"(e) Except as provided in Subsection (f) of this section, an offense under this section is a Class B misdemeanor.

"(f) An offense under this section is an offense of the same classification as any offense of a higher grade committed by anyone engaged in the riot, if the offense was:

"(1) in the furtherance of the purpose of the assembly; or

"(2) an offense which should have been anticipated as a result of the assembly."

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Amend Subsection (e), Section 28.06, in Section 1 of C.S.S.B. 34, to read as follows:

"(e) If the actor proves by a preponderance of the evidence that he gave consideration for or had a legal interest in the property involved, the value of the interest so proven shall be deducted from:

"(1) the amount of pecuniary loss if the property is destroyed; or

"(2) the amount of pecuniary loss to the extent of an amount equal to the ratio the value of the interest bears to the total value of the property, if the property is damaged."

The amendment was read and was adopted.

Senator Santiesteban offered the following amendment to the bill:

Amend C.S.S.B. 34, Subsection (b) of Section 6, to read as follows:

"(b) Conduct constituting an offense under existing law that is repealed by this Act and that does not constitute an offense under this Act may not be prosecuted after the effective date of this Act. If, on the effective date of this Act, a criminal action is pending for conduct which was an offense under the laws repealed by this Act and which does not constitute an offense under this Act, the action is dismissed on the effective date of this Act. However, a conviction existing on the effective date of this Act, for conduct constituting an offense under laws repealed by this Act, is valid and unaffected by this Act. For the purpose of this section, 'conviction' means a finding of guilt in a court of competent jurisdiction and it is no consequence that such conviction is not a final conviction."

The amendment was read and was adopted.

(President in Chair)

Senator Santiesteban offered the following amendment to the bill:

Amend C.S.S.B. 34, Section 1, by deleting the word "a" and substituting the word "any" in the following sections:

- (1) Sec. 12.31 on page 45, line 3;
- (2) Sec. 12.32 on page 45, line 8;
- (3) Sec. 12.33 on page 45, line 16;
- (4) Sec. 12.42 on page 46, line 19;
- (5) Sec. 12.43 on page 47, line 8 and line 13.

The amendment was read.

Question, Shall the amendment be adopted?

#### SENATE BILLS ON FIRST READING

By unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

By Senator Hightower:

S.B. 979, A bill to be entitled An Act relating to the protection and policing of state property, buildings, driveways and grounds; amending Sections 1, 2, 3, 4, 7, 8 and 11, Chapter 102, Acts of the 58th Legislature, Regular Session, 1963, as amended (Article 678e, Vernon's Texas Civil Statutes); repealing Section 12, Chapter 102, Acts of the 58th Legislature, Regular Session, 1963, as amended (Article 678e, Vernon's Texas Civil Statutes); and declaring an emergency.

To Committee on Administration.

By Senators Mauzy, Clower, Braecklein and Harris:

S.B. 980, A bill to be entitled An Act amending the Judicial Districts Act of 1969, Chapter 23, Acts of the 61st Legislature, 2nd Called Session, 1969, as amended (Article 199a, Vernon's Texas Civil Statutes) by adding two new sections to Subchapter C and creating the 233rd and 234th Judicial Districts, composed of Dallas County, with each of said courts giving preference to criminal cases; providing severability; and declaring an emergency.

To Committee on Administration.

By Senator Clower:

S.B. 981, A bill to be entitled An Act relating to compensation to a certain county in which the criminal district attorney performs the duties of a district attorney in addition to the duties of a criminal district attorney; and declaring an emergency.

To Committee on Jurisprudence.

### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House, were read the first time and referred to the Committee indicated:

H.B. 1288, To Committee on Natural Resources.  
 H.B. 1683, To Committee on Intergovernmental Relations.  
 H.B. 1293, To Committee on Administration.  
 H.B. 1300, To Committee on Administration.  
 H.B. 1665, To Committee on Administration.  
 H.C.R. 147, To Committee on Administration.  
 H.B. 1596, To Committee on Administration.  
 H.B. 1489, To Committee on Administration.  
 H.B. 1520, To Committee on Human Resources.  
 H.B. 1410, To Committee on Administration.  
 H.B. 1477, To Committee on Education.  
 H.B. 1641, To Committee on Administration.  
 H.B. 1633, To Committee on Administration.  
 H.B. 1629, To Committee on Education.  
 H.B. 1618, To Committee on Jurisprudence.  
 H.B. 1642, To Committee on Intergovernmental Relations.  
 H.B. 1639, To Committee on Jurisprudence.  
 H.B. 1324, To Committee on Finance.  
 H.C.R. 187, To Committee on Administration.  
 H.C.R. 182, To Committee on Administration.  
 H.C.R. 87, To Committee on Administration.  
 H.C.R. 98, To Committee on State Affairs.  
 H.C.R. 101, To Committee on Administration.  
 H.C.R. 128, To Committee on Administration.  
 H.B. 1645, To Committee on Administration.  
 H.B. 1667, To Committee on Intergovernmental Relations.  
 H.B. 1680, To Committee on Administration.  
 H.B. 1286, To Committee on Education.  
 H.B. 1572, To Committee on Administration.  
 H.B. 1363, To Committee on Human Resources.  
 H.B. 1244, To Committee on Administration.  
 H.B. 1200, To Committee on State Affairs.

### MESSAGE FROM GOVERNOR

The following Message from the Governor was read and referred to the Committee on Economic Development.

Austin, Texas

May 15, 1973

TO THE SENATE OF THE SIXTY-THIRD LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE STATE BOARD OF INSURANCE:

For a six-year term to expire January 31, 1979:  
Mr. Ned Price of Austin, Travis County for reappointment.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

**SENATE BILL 407 WITH HOUSE AMENDMENT**

Senator Clower called S.B. 407 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

**AMENDMENT NO. 1**

Amend S.B. 407 by renumbering Section 2 to be Section 3, and adding a Section 2 to read as follows:

Sec. 2. Article 1995, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 31 to read as follows:

"31. Breach of warranty by a manufacturer. - Suits for breach of warranty by a manufacturer of consumer goods may be brought in any county where the cause of action or a part thereof accrued, or in any county where such manufacturer may have an agency or representative, or in the county in which the principal office of such company may be situated, or in the county where the plaintiff or plaintiffs reside."

The House amendment was read.

Senator Clower moved to concur in House amendment.

The motion prevailed.

**RECORD OF VOTES**

Senators Aikin and Snelson asked to be recorded as voting "Nay" on the motion to concur in House amendment.

**BILLS AND RESOLUTION SIGNED**

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolution:

H.B. 1358  
H.B. 130  
H.B. 1135  
H.B. 206  
H.C.R. 74

**CO-AUTHORS OF SENATE RESOLUTION 432**

On motion of Senator Kothman and by unanimous consent, Senators Wolff and Traeger will be shown as Co-authors of S.R. 432.

**SENATE BILL 973 RE-REFERRED**

On motion of Senator Traeger and by unanimous consent, S.B. 973 was withdrawn from the Committee on State Affairs and re-referred to the Committee on Administration.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 642**

Senator Wallace submitted the following Conference Committee Report:

Austin, Texas  
May 15, 1973

Honorable William P. Hobby  
President of the Senate

Honorable Price Daniel, Jr.  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 642 have met and had same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WALLACE  
MEIER  
ADAMS  
CLOWER  
ANDUJAR  
On the part of the Senate

BAILEY  
MENEFEY  
FOX  
HUTCHISON  
JONES  
On the part of the House

S.B. 642,

"A BILL

TO BE ENTITLED

An Act authorizing the creation and organization in metropolitan areas of rapid transit authorities; excepting certain bicounty metropolitan areas as defined in said Act; making findings and defining terms; providing for an election; providing for transit authority boards; prescribing the functions, powers, duties, responsibilities, and privileges of such authorities and their engineers, employees and representatives; authorizing the levy and collection of motor vehicle emission taxes by such authorities; exempting certain motor vehicles; authorizing the issuance of bonds and notes and making provision for securing

their payment by such authorities; prescribing the characteristics of such bonds and notes and their eligibility for legal investments and security for deposits; providing certain tax exemptions; authorizing the adoption of rules and regulations and prescribing of penalties; containing a severability clause; and declaring an emergency.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**Section 1. Findings. The legislature finds that:**

(a) A dominant part of the state's population is located in its rapidly expanding metropolitan areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;

(b) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles which are generally powered by internal combustion engines that emit pollutants into the air, which emissions result in increasing dangers to the public health and welfare, including damage to and deterioration of property as well as harm to persons, and hazards to air and ground transportation;

(c) Such concentration of motor vehicles places an undue burden on existing streets, freeways and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizens and the economic life of the areas;

(d) The proliferation of the use of motor vehicles for passenger transportation in such areas is caused in substantial part by the absence or inefficiency and high cost of mass transit services available to the citizens of such areas, and it is in the public interest to encourage and provide for efficient and economical local mass rapid transit systems in such areas for the benefit and convenience of the people and for the purpose of improving the quality of the ambient air therein and reducing vehicular traffic congestion; and

(e) The inalienable right of all natural persons to use the air for natural purposes does not vest in any person the right to pollute the air by artificial means, but such artificial use is subject to regulation and control by the state.

**Sec. 2. Definitions. The following words and terms, wherever used and referred to in this Act, have the following respective meanings, unless a different meaning clearly appears from the context:**

(a) "Metropolitan area" means any area within the State of Texas having a population density of not less than 250 persons per square mile and containing not less than 51 percent of the incorporated territory comprising a city having a population of not less than 1,200,000 inhabitants according to the last preceding or any future federal census, and in which there may be situated other incorporated cities, towns and villages and the suburban areas and environs thereof.

(b) "Principal city" means the city of largest population in a metropolitan area.

(c) "Authority" means a rapid transit authority created pursuant to the provisions of this Act.

(d) "Board" means the governing body of an authority.

(e) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or by any combination of the foregoing.

(f) "System" means all real and personal property of every kind and nature whatsoever, owned or held at any time by an authority for mass transit purposes, including (without limiting the generality of the foregoing), land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses), control



houses, signals and land, facilities and equipment for the protection and environmental enhancement of all such facilities.

(g) "Motor vehicle" means a vehicle self-propelled on two or more wheels by an internal combustion engine or motor over roadways other than fixed rails and tracks.

Sec. 3. Creation of Rapid Transit Authority. The governing body of a principal city in a metropolitan area may, on its own motion, and shall, upon being presented with a petition so requesting signed by not less than 5,000 qualified voters residing within such metropolitan area, institute proceedings to create a rapid transit authority in the following manner:

(a) Such governing body shall by ordinance or resolution fix a time and place for holding a public hearing on the proposal to create such an authority, which ordinance or resolution shall define the boundaries of the area proposed to be included in such authority. If it is proposed to make the boundaries of the authority coterminous with the boundaries of the county in which the principal city is located, such resolution or ordinance shall so state and it shall not be necessary otherwise to describe the territory proposed to be included.

(b) Notice of the time and place of such public hearing, including a description of the area proposed to be included in such authority, shall be published once a week for two consecutive weeks in a newspaper of general circulation in such metropolitan area, the first publication to be not less than 15 days prior to the date fixed for such hearing.

(c) The governing body of the principal city shall conduct said hearing at the time and place specified in such notice, and may continue such hearing from day to day and from time to time until completed. Any interested person may appear and offer evidence for or against the creation of the proposed authority, and may present evidence as to whether or not the creation of such proposed authority and the construction and operation of a mass transit system in such metropolitan area (1) would be of benefit to persons and property situated within the boundaries of the proposed authority, (2) would be of public utility, and (3) would be in the public interest, as well as any other facts bearing upon the creation of such an authority and the construction and operation of such system.

(d) If, after hearing the evidence adduced at such hearing, the governing body of the principal city finds that the creation of such an authority, and the construction and operation of such a system, would be of benefit to persons and property situated within the boundaries of the proposed authority, would be of public utility, and would be in the public interest, such governing body shall adopt an ordinance creating such authority and prescribing the boundaries thereof. Such boundaries may include all or any part of the area described in such notice but shall not contain additional territory without further notice and hearing in the manner herein provided. The authority shall bear the name of the principal city and shall be known as "----- Rapid Transit Authority," and when so created and confirmed at an election held for that purpose, shall have and may exercise the powers authorized by this Act.

(e) After such hearing by the governing body of such authority, the said authority shall submit the proposed plan to the governor's interagency transportation council for their review and comment.

Sec. 4. Transit Authority Board. The management, control and operation of an authority and its properties shall be vested in a board composed of nine members, five of whom shall be appointed by the governing body of the principal city, two of whom shall be appointed by the commissioners court of the county with the largest population of all counties situated in whole or in part within the boundaries of the authority, and two of whom shall be appointed by the mayors of all incorporated cities, towns and villages (except the principal city) situated in whole or in part within the boundaries of the authority. Three of the members appointed by the governing body of the principal city, one of the members appointed by the commissioners court, and one of the members appointed by the incorporated cities, towns and villages (except the principal city) shall serve for an original term of one year and all other members shall serve for an original term of two years. Thereafter, all members shall serve for a term of

two years.

The mayor of the city of largest population (other than the principal city) within the authority shall serve as chairman of an appointment board composed of all mayors of cities, towns and villages situated wholly or partially within the authority (excluding the principal city) and shall, by notice in writing to all members, call such meetings of the appointment board as may be deemed necessary to appoint a member to the board. Initial appointments shall be made within 60 days after the creation of an authority. Failure to make such appointments shall not impair the authority of the board to organize and conduct its business so long as a majority has been appointed and qualified. All vacancies on the board, whether by death, resignation or termination of the term of office, shall be filled for the remainder of the term in the manner provided for the original appointment of the member whose office becomes vacant.

Each member of the board shall be entitled to the sum of \$50 for each meeting of the board which he attends, not to exceed five meetings in any calendar month; and shall be reimbursed for his necessary and reasonable expenses incurred in the discharge of his duties.

The members of the board, who shall be resident citizens and qualified voters of the authority, shall elect from among their number a chairman, a vice-chairman and a secretary. The board may appoint such assistant secretaries, either members or nonmembers of the board, as it deems necessary. The secretary and assistant secretaries shall, in addition to keeping the permanent records of all proceedings and transactions of the authority, perform such other duties as may be assigned to them by the board. No member of the board or officer of the authority shall be pecuniarily interested and/or benefitted, directly or indirectly, in any contract or agreement to which the authority is a party.

Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided, however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal which shall become final unless the member, within 10 days, requests a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, then its decision shall be final.

The board shall hold at least one regular meeting during each month for the purpose of transacting the business of the authority. Upon written notice, the chairman or the general manager may call special meetings as may be necessary. The board, when organized, shall by resolution spread upon the minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings. Five members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and action may be taken by the authority upon a vote of a majority of the board members present unless the bylaws require a larger number for a particular action.

Sec. 5. Confirmation and Emission Tax Election. After the original board is organized, it shall call an election at which the following proposition shall be submitted to the qualified voters within the authority:

"Shall the creation of the ----- Rapid Transit Authority be confirmed and shall the board of such authority be authorized to levy and collect motor vehicle emission taxes?"

Notice of such election shall state the day and place or places for holding the election, the maximum vehicle emission taxes, by category, that may be authorized, and the proposition to be voted on and shall be published once a week for two consecutive weeks in a newspaper of general circulation within the authority. The first publication shall be at least 15 days before the date set for the election. The election shall be conducted in accordance with the provisions of the Texas Election Code, as amended.

Immediately after such election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results at the earliest practicable time. If a majority of the

votes cast at the election is in favor of confirmation of the creation of the authority and the levy and collection of motor vehicle emission taxes, then the board shall enter the results on its minutes and adopt an order declaring that the authority is created and that the board is authorized to levy and collect motor vehicle emission taxes, which order shall contain a description of the boundaries of the authority, and a certified copy of which shall be filed with the Texas Mass Transportation Commission and in the deed records of the county or counties in which the authority is located.

If a majority of the votes cast at the election is against confirmation of the creation of the authority and the levy and collection of motor vehicle emission taxes, the board shall enter the results on its minutes and adopt an order declaring that confirmation of the creation of the authority was defeated, and file a certified copy of such order with the Texas Mass Transportation Commission, whereupon the authority shall be dissolved.

Such election may be held separately or in conjunction with other elections, and the cost thereof shall be paid by the principal city.

Sec. 6. Powers of the Authority. The authority, when created and confirmed, shall constitute a public body corporate and politic, exercising public and essential governmental functions, having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the following powers herein granted:

(a) The authority shall have perpetual succession.

(b) The authority may sue and be sued in all courts of competent jurisdiction and may institute and prosecute suits without giving security for costs and may appeal from a judgment or judgments without giving supersedeas or cost bond.

(c) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act.

(d) The authority shall have the power to acquire, construct, complete, develop, own, operate and maintain a system or systems within its boundaries, and both within and without the boundaries of incorporated cities, towns and villages and political subdivisions, and for such purposes shall have the right to use the streets, alleys, roads, highways and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance and operation of the system, or to cause each and all of said things to be done at the authority's sole expense. The authority shall not proceed with any action to change, alter or damage the property or facilities of the state, its municipal corporations, agencies or political subdivisions or of owners rendering public services, or which shall disrupt such services being provided by others, or to otherwise inconvenience the owners of such property or facilities, without having first obtained the written consent of such owners or unless the authority shall have first obtained the right to take such action under its power of eminent domain as herein specified. In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces, or to cause the same to be done by contractors of their own choosing, the authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the authority to such owners of the costs incurred by such owners in making such relocations, changes or alterations and/or in causing the same to be accomplished by such contractors.

In the event the authority, in exercising any of the powers conferred by

this Act makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(c) The authority shall have the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that such right shall not be exercised in a manner which would unduly interfere with interstate commerce or which would authorize the authority to run its vehicles on railroad tracks which are used to transport property.

Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended, insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use.

(f) The authority shall have the power to enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of their respective facilities, installations and properties of whatever kind and character within the authority and to establish through routes, joint fares or transfer of passengers.

(g) The authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the authority which shall be reasonable and nondiscriminatory and which, together with receipts from motor vehicle emission taxes collected by the authority, shall be sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of all bonds issued by the authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.

It is the intention of this Act that the motor vehicle emission taxes and the rates, fares, tolls, charges, rents and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the authority by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control such taxes, rates, fares, tolls, charges, rents and other compensation,

provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the powers hereby vested in the authority to establish and collect such motor vehicle emission taxes, rates, fares, tolls, charges, rents and other compensation as will produce revenues sufficient to pay the items specified in Subparagraphs (1), (2), (3) and (4). of this subsection next above, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with such bonds, are fully met and discharged.

(h) The authority may make contracts, leases and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, and public or private corporations and persons, and may generally perform all acts necessary for the full exercise of the powers vested in it. The authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.

(i) The authority may sell, lease, convey or otherwise dispose of any of its rights, interests or properties which are not needed for, or, in the case of leases, which are not inconsistent with, the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(j) The authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system and shall determine all routings and change the same whenever it is deemed advisable by the authority.

(k) The authority shall have power to lease the system or any part thereof to, or contract for the use or operation of the system or any part thereof by, any operator; provided, however, that a lease of the entire system shall be subject to the written consent and approval of the governing body of the principal city.

(l) The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities, and the exercise of any other powers herein granted an authority, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

#### **Sec. 7. Bonds and Notes.**

(a) The authority shall have no power to assess, levy or collect any ad valorem taxes on property, nor to issue any bonds or notes secured by ad valorem tax revenues. The authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing authority, at such price or prices and under such terms and conditions as may be fixed by the issuing authority in the resolution authorizing such bonds or notes, and may be sold at public or private sale whichever the board may deem more advantageous.

(b) Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the

Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the constitution and this Act, and that they will be binding obligations of the authority issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration and the sale and delivery of the bonds to the purchaser, they shall be incontestable.

(c) In order to secure the payment of such bonds or notes, such authority shall have full power and authority to encumber and pledge all or any part of the receipts from motor vehicle emission taxes and all or any part of the revenues of its rapid transit system or systems, and to mortgage and encumber all or any part of the properties thereof, and everything pertaining thereto acquired or to be acquired and to prescribe the terms and provisions of such bonds and notes in any manner not inconsistent with the provisions of this Act. As additional security for the payment of any such bonds or notes, any such authority may, by the terms of the instrument evidencing such encumbrance, grant to the purchaser under the power of sale in such instrument, a franchise to operate any such rapid transit system or systems, and the properties thereof, for a term not to exceed 25 years after purchase, subject to all laws regulating same then in force. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any such authority shall have full power and authority to encumber separately any item or items of real estate or personalty, including motorbuses, transit cars and other vehicles, machinery and other equipment of any nature, and to acquire, use, hold or contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including, but not limited to, transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such authority from encumbering any one or more rapid transit systems for the purpose of purchasing, building, constructing, enlarging, extending, repairing or reconstructing, another one or more of said systems and purchasing necessary property, both real, personal and mixed, in connection therewith.

(d) Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including, without limitation, Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as presently enacted or hereafter amended.

(e) Whenever the revenues of any rapid transit system shall be encumbered under this Act, the expense of operation and maintenance, including all salaries, labor, materials and repairs necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues. The fares charged for transportation of passengers by any rapid transit system may be based on a zone system of determining fares or other fare classification determined by such authority to be reasonable.

(f) All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

(g) If revenue bonds are to be issued by an authority to acquire any existing transportation system, or any part thereof, and the owner thereof is willing to accept said revenue bonds in lieu of cash, then in that event the revenue bonds may be exchanged for the property or for the stock of a corporation owning the property to be dissolved simultaneously.

#### Sec. 8. Motor Vehicle Emission Taxes.

(a) The board of an authority shall be authorized to levy and cause to be

collected motor vehicle emission taxes as herein provided. Such taxes shall be collected by the county tax assessor-collector of each county, situated in whole or in part within the authority from each motor vehicle owner whose residence is within such county and within the authority. Not later than November 1 of each year, the board shall certify to the county tax assessor-collector of each county situated in whole or in part within the authority's boundaries the rate of tax prescribed for each class of motor vehicles for the ensuing tax year. At the time the owner of a motor vehicle applies each year to the State Highway Department through the county tax assessor-collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current motor vehicle registration year or unexpired portion thereof, such owner shall pay to the county tax assessor-collector the motor vehicle emission taxes due or to become due to such authority on such motor vehicle for the ensuing or current tax year at the applicable rate prescribed by the board. The county tax assessor-collector shall refuse to issue a registration license for a motor vehicle until the emission tax thereon for the period covered by such registration license has been paid.

(b) The tax year for motor vehicle emission taxes shall consist of calendar quarters, the first quarter to commence on April 1 of each year. Each application so filed during the second quarter, the third quarter, or the fourth quarter shall be accompanied by three-fourths, one-half, or one-quarter, respectively, of the annual tax; and each application for re-registration filed subsequent to June 30th shall be accompanied by an affidavit that such vehicle has not been previously operated within the boundaries of the authority during any quarter of the current tax year, failing which the tax for the entire tax year shall be paid in full.

(c) The authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued, bear a number or other identifying symbol of the motor vehicle for which issued. The tax assessor-collector shall retain one copy and deliver the original to the taxpayer.

(d) Each tax assessor-collector shall receive a uniform fee of 45 cents for each tax receipt issued by him each tax year pursuant to this Act. Such fees shall be used to pay expenses reasonably incurred in collecting such taxes and issuing all tax receipts pursuant hereto.

(e) Each tax assessor-collector shall remit to the authority on or before the 15th day of each month, or at such other intervals of time as may be agreed upon by the authority and each tax assessor-collector, all taxes, penalties and interest collected on behalf of the authority for the preceding calendar month, or other agreed time interval, after deducting the collection fees and mailing charges described in the next preceding paragraph.

Sec. 9. Rate of Tax. Motor vehicles shall be classified by groups based upon the number of cubic inches of cylinder displacement of their motors or engines and the maximum emissions tax which may be levied by any authority shall not exceed the respective annual sums shown in the following table:

Cubic Inches of Cylinder Displacement	Annual Tax Per Vehicle
0 - 50	\$ 4
51 - 100	6
101 - 200	7
201 - 300	8
301 - 900	10
901 - or more	15

The board of an authority shall each year fix the rate of tax for each group by fixing the percentage (not more than 100) of the foregoing respective maximum rates, which percentage shall apply equally and uniformly to all groups and to all members of each group.

Sec. 10. Exempt Vehicles. The owners of motor vehicles listed below shall be exempt from the payment of emission taxes on such vehicles, as follows:

(a) Those vehicles which are the property of and used exclusively in the service of the United States government, the State of Texas, or any county, city, school district or rapid transit authority thereof.

(b) Those used exclusively for fire-fighting; and

(c) Those owned by any person, association, corporation or partnership residing within the boundaries of an authority and doing business both within and without or wholly without such boundaries, which motor vehicles are not stationed or customarily kept within the boundaries of the authority and which are not regularly operated within such boundaries. "Regularly operated" means an average of two days per calendar week in a tax year or portion thereof for which such tax accrues. Residents of an authority claiming an exemption under this Subparagraph (c) shall file an affidavit with the county tax assessor-collector specifying the vehicles claimed to be exempted.

Sec.11. Payments and Penalties. Motor vehicle emission taxes shall be due and payable on February 1 of each year for which levied and shall become delinquent if not paid by April 1 of such year; provided that taxes on vehicles becoming subject to such taxes after April 1 of any tax year shall be due and payable on the date such taxes accrue and shall become delinquent if not paid within 60 days thereafter.

The following penalties shall be payable on delinquent emission taxes, to wit: During the first month after delinquency, one percent; during the second month, two percent; during the third month, three percent; during the fourth month, four percent; during the fifth month, five percent; and during or after the sixth month, eight percent.

All delinquent emission taxes shall bear interest at the rate of six percent per annum from the date of their delinquency until paid.

Neither the levy, collection nor payment of a motor vehicle emissions tax shall be construed to authorize any act prohibited by law or by any rule or regulation lawfully promulgated.

Sec. 12. Management. The responsibility for the management, operation and control of the properties belonging to an authority shall be vested in its board. The board may:

(a) employ all persons, firms, partnerships or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure and compensation of each. All employees may be removed by the board;

(b) become a subscriber under the Texas Workmen's Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(c) adopt a seal for the authority;

(d) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the board, by resolution, may provide that an authorized representative of the authority may invest and reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(e) fix the fiscal year for the authority;

(f) establish a complete system of accounts for the authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(g) designate one or more banks to serve as the depository for the funds of the authority.

All funds of the authority shall be deposited in the depository bank or



banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.

To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

Sec. 13. Rules and Regulations. The board may adopt and enforce reasonable rules and regulations:

(a) to secure and maintain safety and efficiency in the operation and maintenance of its facilities;

(b) governing the use of the authority's facilities and services by the public and the payment of fares, tolls and charges;

(c) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned or controlled by the authority; and

(d) regulating the collection and payment of emission taxes levied by the board.

A condensed substantive statement of the rules and regulations and the penalty for their violation shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the authority is located, which notice shall advise that breach of the rules and regulations will subject the violator to a penalty and that the full text of the rules and regulations is on file in the principal office of the authority where it may be read by any interested person. Such rules and regulations shall become effective 10 days after the second publication.

The board may set reasonable penalties for the breach of any rule or regulation of the authority which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both. Such penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the authority's principal office is located.

An authority may employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of an offense against the rules and regulations of the authority and against the laws of the state when the offense or threatened offense occurs on any land, easement, right-of-way, rolling stock or other property owned and controlled by the authority and to make arrests in cases of an offense involving injury or detriment to any property owned or controlled by the authority.

Sec. 14. Competitive Bids. Contracts for more than \$2,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts. This section shall not apply to personal and professional services or to the acquisition of existing transit systems.

Sec. 15. Exemption of Bicity Metropolitan Areas.

It is specifically provided that there shall not be included within the metropolitan area, as herein defined, any part of the territory situated within a bicity metropolitan area. For the purpose of this exclusion, a "bicity metropolitan area" is defined as an area comprised of two contiguous counties in each of which is located a city having a population of 350,000 or more according to the last preceding or any future federal census.

Sec. 16. Right to Enter Land. Engineers, employees, and representatives of an authority may go on any land within the authority boundaries to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment or appliances and to attend to any business of the authority; provided that two weeks' notice be given to the owners in possession and that if any of the authority's activities cause damage

to the land or property, the land or property shall be restored as nearly as possible to the original state at the sole expense of the authority.

Sec. 17. Exemptions from Taxes. The property, revenues and income of the authority and the interest on bonds and notes issued by the authority shall be exempt from all taxes levied or to be levied by the State of Texas, its political subdivisions, counties or municipal corporations.

Sec. 18. Severability Clause. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision.

Sec. 19. Construction of Act. This Act shall be liberally construed to carry out the purpose of its adoption. This Act shall be cumulative of other laws on the subject but insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Sec. 20. Emergency. The fact that there is a pressing need for efficient and economical rapid transit facilities in metropolitan areas of the state and for relief from the harmful effects of air pollution and traffic congestion in such areas creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and this Act shall take effect and be in force from and after its passage; and it is so enacted.

The Conference Committee Report was read and was adopted.

#### RECORD OF VOTES

Senators Ogg and Traeger asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report.

#### HOUSE BILL 215 ON THIRD READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

H.B. 215, A bill to be entitled An Act relating to corporate guaranties, amending Section B, Article 2.06, Texas Miscellaneous Corporation Laws Act, as amended (Article 1302-2.06, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read third time.

Senator Brooks offered the following amendment to the bill:

Amend H.B. 215 by adding a sentence at the end of quoted Section B in Section I of the bill to read as follows:

"Provided, however, this Section B shall not apply to nor enlarge the powers of any corporation, domestic, foreign, or alien, that does business pursuant to any provision of the Insurance Code of Texas, whether licensed in Texas or not, nor shall it allow or permit any corporation, not licensed under the Insurance Code of Texas, to engage in any character, type, class, or kind of fidelity, surety, or guaranty business or transaction subject to regulation under the Insurance Code."

The amendment was read and was adopted.

The bill as amended was again finally passed by the following vote: Yeas 31, Nays 0.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

**VOTE ON ADOPTION OF CONFERENCE COMMITTEE  
REPORT ON SENATE BILL 642 RECONSIDERED**

On motion of Senator Wallace and by unanimous consent, the vote by which the Conference Committee Report on Senate Bill 642 was adopted was reconsidered.

Question, Shall the Conference Committee Report on S.B. 642 be adopted?

The Conference Committee Report was again adopted by the following vote: Yeas 28, Nays 3.

Yeas: Adams, Aikin, Andujar, Blanchard, Braecklein, Clower, Creighton, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Wallace and Wolff.

Nays: Brooks, Ogg and Traeger.

**NOTICES OF INTENT**

The following Notices of Intent were filed with the Secretary of the Senate:

Wednesday, May 16, 1973

H.C.R. 163 - Senator Santiesteban  
C.S.H.B. 169 - Senator Jones  
H.B. 181 - Senator Patman  
C.S.H.B. 264 - Senator Ogg  
H.B. 285 - Senator Moore  
H.B. 311 - Senator Hightower  
C.S.H.B. 339 - Senator Brooks  
H.B. 370 - Senator Mauzy  
C.S.H.B. 371 - Senator Mauzy  
H.B. 433 - Senator Harris  
H.B. 441 - Senator Mauzy  
H.B. 460 - Senator Santiesteban  
H.B. 548 - Senator Santiesteban  
H.B. 569 - Senators Ogg and Brooks  
H.B. 990 - Senator Harris  
H.B. 1182 - Senator Ogg  
H.B. 1415 - Senator Kothmann  
C.S.S.B. 34 - Senator Santiesteban (Unfinished Business)  
S.B. 86 - Senator Brooks  
S.B. 117 - Senator Mengden  
S.B. 169 - Senator Adams  
S.B. 201 - Senator Ogg  
S.B. 233 - Senator Hightower  
S.B. 308 - Senator Mengden  
S.B. 428 - Senator Mengden  
C.S.S.B. 456 - Senator Jones

C.S.S.B. 462 - Senator Mengden  
S.B. 541 - Senator Mengden  
C.S.S.B. 545 - Senator Mengden  
C.S.S.B. 628 - Senator Mengden  
C.S.S.B. 704 - Senator Mengden  
C.S.S.B. 715 - Senator Aikin  
C.S.S.B. 726 - Senator Hightower  
S.B. 729 - Senator Santiesteban  
S.B. 772 - Senator Ogg  
S.B. 778 - Senator Gammage  
C.S.S.B. 783 - Senator Ogg  
C.S.S.B. 804 - Senator Herring  
C.S.S.B. 819 - Senator Wolff  
C.S.S.B. 820 - Senator Wolff  
C.S.S.B. 837 - Senator Jones  
S.B. 852 - Senator Mauzy  
S.B. 966 - Senator Ogg  
S.B. 967 - Senator Ogg  
S.B. 969 - Senator Kothmann

Thursday, May 17, 1973

H.B. 311 - Senator Hightower

Friday, May 18, 1973

H.B. 311 - Senator Hightower

Saturday, May 19, 1973

H.B. 311 - Senator Hightower

#### MEMORIAL RESOLUTIONS

S.R. 761 - By Senator Snelson: Memorial resolution for Mrs. Edith Mabel Moody.

S.R. 764 - Senator Herring: Memorial resolution for Mrs. Florence Parke Rossey.

S.R. 765 - Senator Herring: Memorial resolution for Mrs. Alden Davis.

#### WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 760 - By Senator Kothmann: Extending commendation to Elbert Mervin Stevens.

S.R. 762 - By Senator Longoria: Extending congratulations to Army National Guard, Co. B, 2 Battalion, 141st Infantry Brigade.

S.R. 763 - By Senator Clower: Extending welcome to Reverend and Mrs. Charles Cockrell.

S.R. 766 - By Senator Longoria: Extending congratulations to Mrs. Gertrude A. Petrie.

#### ADJOURNMENT

On motion of Senator Aikin the Senate at 12:12 o'clock p.m. adjourned until 9:30 o'clock a.m. tomorrow.

**APPENDIX****Sent to Governor****May 15, 1973**

S.C.R. 20	S.B. 625
S.C.R. 52	S.B. 634
S.C.R. 100	S.B. 644
S.C.R. 106	S.B. 649
S.B. 50	S.B. 650
S.B. 106	S.B. 660
S.B. 124	S.B. 661
S.B. 151	S.B. 673
S.B. 159	S.B. 685
S.B. 173	S.B. 749
S.B. 261	S.B. 788
S.B. 295	S.B. 847
S.B. 344	S.B. 848
S.B. 352	S.B. 856
S.B. 466	S.B. 872
S.B. 480	S.B. 884
S.B. 502	S.B. 887
S.B. 519	S.B. 922
S.B. 526	S.B. 935
S.B. 530	S.B. 658
S.B. 531	S.B. 832
S.B. 551	

**Sent to Comptroller****May 15, 1973**

S.B. 658  
S.B. 832

**SEVENTY-FIFTH DAY**  
(Wednesday, May 16, 1973)

The Senate met at 9:30 o'clock a.m, pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Blanchard, Braecklein, Brooks, Clower, Gammage, Harrington, Harris, Herring, Hightower, Jones, Kothmann, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Wallace and Wolff.

Absent-excused: Creighton.

A quorum was announced present.